

**EXHIBIT A TO THE  
AFFIDAVIT OF  
CHRISTOPHER  
ROELLKE**

[illegible]

VAS 00001310

College Regulations Panel Hearing

Marcy 7, 2013

Louis Inoa, Chair

Panel Members:

Jamie Kelly (Faculty)  
Sophia Harvey (Faculty)  
Jane Parker (Faculty)

Rich Horowitz on behalf of the college  
Witnesses:

**Redacted**

Peter Yu '15 - Accused

5.5 Sexual Misconduct

PY Not Responsible

20.02 Sexual Offenses

PY Not Responsible

RH- Summary of facts regarding the incident

The incident took place over a year ago on December 18, 20

There are no witnesses in Ps Room; there were witnesses to just prior to the incident. **Redacted** and PY were on the rowing team and were at a party in the THs. Drinks were served. Both were drinking. She turned his offer to go to the Mug. Eventually, they went to the Mug. **Redacted** has no memory at the Mug. They walked

to Ps room; friends saw them on their way. There was a high level of intoxication and they wanted to intervene, but it was too late. [Redacted] said she felt like she was taken advantage of by having oral, penil and vaginal sex with her. P said he did not take advantage of her. [Redacted] was sobbing thinking about the incident and thinking about her ex-boyfriend. She had [Redacted] stated these things at the time because she was in denial and in shock and disbelief. She said in the comments it was due to intoxication and force. When can someone make a rational decision? It does not matter how the person becomes incapacitated and if a person is incapacitated, they cannot give consent. If she was incapacitated, should P have known that she was incapacitated? Ps level of intoxication does not matter. Vassar College policy holds no responsibility for students who are intoxicated. If [Redacted] was intoxicated, P was responsible for violations because consent cannot be gained when someone is incapacitated. If [Redacted] is not incapacitated or if she was incapacitated but outsider cannot be sure she was. Did P use force on [Redacted] to gain consent? If P is more likely than not to have used force.

[Redacted] No questions.

PY [Redacted] stated she said yes, why is this not an area of agreement.

RH Section 2 [Redacted] was intoxicated; you stated that she was drunk that night.

PY What is the evidence other than [Redacted] own statement that she did not want to connect with me?

RH An effort was made to illustrate [Redacted] and PYs perspective. Your statement I tried to provide a narrative you and she provided. No one else came to me, this is what she said.

PY Question 1, was [Redacted] incapacitated and she blacked out there were seven points To support that.

RH It is not necessary, a preponderance of evidence to support likely or not likely. There are parts to that evening she has no recollection of, was her behavior conflicted to what she wanted to do? We have no certainty.

PY Is it true that there is no evidence for parts 1-7 other than from [Redacted]?

RH Evidence that she offered (RH reads statement).

PY Are these statements only provided by [Redacted] or are they supported by any other source?

RH No, from [Redacted].

PY Besides what [Redacted] claimed to be true that night is the only level of intoxication

from friends.

RH That is correct. You did mention that you knew she was intoxicated that night.

PY When you were getting the information, did you ask persons to be honest and give you the whole truth about the incident?

RH We have the understanding and trust from our students to be honest. Is there a possibility that a student is dishonest? Absolutely.

PY Is all the information gathered so far in the file?

RH The consolidation of information you see is not everything, so the panel does not have to read through everything.

PY When was the first time she talked to anyone about this?

RH We don't write specific question and no specific set of questions are asked

PY Did you ask [Redacted] about Facebook messages?

RH No.

PY Did she mention about the Facebook messages?

RH I do not recall.

PY Did you ask if she has communicated with me after the incident?

RH After it was apparent this was an "incident" I don't think so.

PY Did you ask [Redacted] about the Facebook messages after I showed them to you on the 20<sup>th</sup>?

RH Yes.

PY What did you ask [Redacted] to do on the 21<sup>st</sup> when you showed her the Facebook messages? Did you reach out to speak with her or did she come in on her own?

RH We asked her to come in and she did.

PY You are aware she reached out to me in March and October after the Facebook messages.

RH Yes.

JK The issue on incapacitation, page four, we would find responsible for one or both of the charges.

RH The charges overlap.

Redacted No questions.

PY Why is there no statement from Redacted?

RH After we spoke to her, information she had did not require a statement.

PY Why does Redacted have two statements?

RH She provided a statement and when she came in, we had more questions for her to answer, so she gave another statement.

PY The first statement was given without being requested?

RH She knew she was being called in and gave a statement.

Redacted Statement regarding the facts of the incident.

Redacted I have a written statement submitted, I have nothing further.

RH Do you believe you blacked out that night?

Redacted I do because I do not remember anything until the next day.

PY Is your written statement all you have to provide since you did not say anything?

Redacted Except for the clarification that I was making Facebook messages.

PY When was the first time you told anyone about the incident?

Redacted Last October.

PY Did anyone see you on your way to the Mug?

Redacted One friend thought they saw me there, but I am not sure.

PY On your way to the Mug?

Redacted Not that I know of.

PY Did you have any conversation at the party that night?

Redacted Yes.

PY Do you remember what our conversations were about?

Redacted Probably about racing season, I do not know specifics.

PY Are you sure that there is no specific content of any conversation at the rowing party?

Redacted No specific conversations.

PY In your written statement, you said, "PY asked me if I would go to the Mug and I said no", do you not remember that?

Redacted Yes, near the sink there was a conversation with P.

PY Do you remember walking to the Mug?

Redacted No.

PY Do you remember clearly what happened in the College Center that day?

Redacted I remember walking there, nothing before and nothing after.

PY Any details in that space?

Redacted I remember you asked for a kiss and I said I only kiss people I am in a relationship with.

PY How does that explain the last page of the report "pretty certain" she said no and states she cannot remember anything now in the college Center. Why does the written statement contradict this?

Redacted I was not thorough enough in my last statement. He tried to kiss me I said no. This is not a contradiction; it was just not a full representation of what happened.

PY Do you remember who the friend was that said he saw a girl making out with a boy.

Redacted No.

PY Did anyone say anything to you in the Mug?

Redacted Not that I recall.

PY Do you remember leaving the Mug?

Redacted No.

PY Do you remember leaving Main?

Redacted Yes,

PY Do you recall calling your roommate to see if your room was available for us that night?

Redacted No.

PY Do you recall any conversation on the way to Jewett?

Redacted No.

PY Do you recall going to the fourth floor of Jewett through the stairs?

Redacted No.

PY Does she recall taking her own clothes off?

Redacted No, I believe you took off my clothes but She is not sure.

PY Why if she is not sure who took her clothes off, why in her statement it says "he took them off, he stripped everything, I took off my jacket"?

Redacted Even then it was fuzzy, That's what I remember... that's what she remembers.

PY Do you recall I told you I was a virgin before we engaged in any activity?

Redacted No.

PY Do you remember putting on a condom for me?

Redacted No.

PY Do you recall sexual intercourse being interrupted by Redacted?

Redacted No.

PY Do you remember when you were about to leave the room, jumping out of my bed quickly?



**Redacted** Yes, I do remember that.

PY Do you recall putting on your own clothes?

**Redacted** I remember jumping out of bed and running down

PY Do you remember where you went after leaving my room?

**Redacted** Back to my room.

PY Do you remember talking to anyone on your way back to your room?

**Redacted** No.

PY Do you recall going back to your room alone?

**Redacted** not a clear memory just remember leaving and being in my room.

PY Do you remember how you went down the hall of Jewett?

**Redacted** Little recollection.

PY Was your room locked?

**Redacted** I don't remember, but my room is frequently locked.

PY Did you reply to the concerns people had for you?

**Redacted** They never expressed their concerns to me.

PY When people showed in your room thinking I was hurting someone, you Replied 'I will stick up for you' because you were not hurt.

**Redacted** Response to him in my statement does not reflect any truth of how I felt that day because I was just trying to cope.

PY Who initiated contact on March 20<sup>th</sup> on Facebook?

**Redacted** It's easy to see on Facebook who initiated. I m **Redacted** and I was told he was upset, so I was trying to make amends. I was **Redacted**. I was trying to make sure I was on good terms with all my teammates.

PY Were you still in shock and denial when you initiated the Facebook conversation?

**Redacted** Less shocked because I had some time, but over all, yes.

OT Did you make request for me to have lunch with you?

Redacted Yes, I was trying to Redacted.

JP Was it you hurt someone or him?

Redacted I was quoting him.

PY Explain what you were feeling for on March 28<sup>th</sup> in your statement.

Redacted The word guilty came from the fact that he was upset about the loss of his virginity.

PYT Why do you feel guilty about me loosing my virginity when you do not remember anything about me saying I was a virgin?

Redacted A teammate cane to me and said you were upset.

PY What did she mean on the day after the incident when she said I am sorry I led you on that night. What did she mean?

Redacted After he asked and I said no, I did not make it clear enough by not pushing him away enough. I was confused and upset.

PY Statement of facts regarding the incident.

The incident happened on 2/19, went to a rowing party at the TAs. I do not remember Redacted came into the party, I was drinking. I talked to Redacted at the end of the party. We were standing together, she was holding a drink. She said do you want me to make you a drink, and I said yes. I said do you want to go to the Mug and she said yes. We left the TA and went to the Mug. We exchanged one quick kiss. Walked near mailboxes we were making out. My hands on her waist and her hands around my neck. Mug was empty, not many people were there. We went to the corner and we were making out. During the making out, I asked Redacted if she wanted to have sex with me. First time she said not sure, I am a relationship person. We kept making out for a while and I asked her do you want to have sex with me, and she said ok. We left. I said lets have sex in your room. We called her room and no one answered. She said lets go to your room. We walked from the back of Main to Jewett. She was walking with no difficulty. She was asking me questions, do you want to have breakfast or lunch tomorrow. We got into Jewett, went to the fourth floor. Got into my room. She went to the bathroom; I left my room and went to the bathroom also. I saw her leaving the bathroom and I returned to my room. We were standing there, we started making out and she started taking her clothes off. I helped her with her bra and she took

of her panties. I took off my clothes and she helped me. We were naked standing in front of each other. I said I am a virgin and she said it's ok, I know what to do. I said I am out of shape and she said it's ok, it takes time. She stimulated my penis with her hand. We got on the bed; we were kneeling on the bed making out. She lowered her body and she started performing oral sex on me and stimulated me with her hand, and I started performing oral sex on her. She said did you learn this from the Internet or did you learn this yourself? She was giving me instructions how she would like me to stimulate her. I was going to reach for a condom she said I can to it, she reached for the desk on her left and put it on me and we proceeded to have sexual intercourse. I was on top at first and then we switched positions. I could not get fully erect because of the alcohol at one point my penis was out and she put my penis back in again. We heard a key sound outside the door. I assumed it was [Redacted] I pulled the comforter over us. I said [Redacted] can you leave for a couple of hours? Sex was paused and was not resumed again. She was telling me how much she missed her boyfriend and started sobbing. She said she could not do this anymore. Sex was never resumed. She dressed herself, I noticed condom fell off and she said at least I kept your virginity. After she left my room, I got dressed. Saw [Redacted] he said I want to talk to you. I followed him in the 4 East direction. I went back to my room and went to sleep. When I woke up it was 11 am the next day.

RH You asked her if she wanted to have sex and she said no, is that correct?

PY The first time she said I am not sure, the second time, I said lets go and have sex and she said ok let's go

RH When she said no, what did you think?

PY I understood No.

RH Why did you ask again?

PY I got up the courage to ask her again.

RH She asked about breakfast, why did she ask about that?

PY I do not know.

RH Did that seem normal?

PY I did not think about that.

[Redacted] When you kissed me in the College Center, did you recall my saying anything to you?

PY No.

Redacted

Where were your hands on my body when you said maybe you should lick it?

PY First on my waist then on her head, but not with any force.

SH Are there any indications that you thought Redacted was intoxicated.

PY Yes, we were both drinking. We were not drinking to the point that she could not give consent.

SH How did you know she was drunk?

PY I saw her drinking at the party, she was more talkative, she said 'I am your beer bitch' and she was not sober.

SH She was not sober, but in your mind she was not incapacitated.

PY Nowhere close to being incapacitated.

JH When you were walking to Jewett, was she struggling to walk?

PY Her arms were crossed out of affection, nothing pulling on me. We were walking in sync. She was not falling and I did not have to hold her.

JH How about going up the stairs?

PY No trouble.

JH Did you see anyone when walking back to the dorms?

PY No.

RH While you were in the Mug you were making out?

PY Yes.

RH Was she sitting in your lap?

PY Don't remember, maybe.

RH Did you attempt to take her shirt off?

PY No.

Redacted

Statement of facts regarding the incident:

We were at a party in the Aula and we had been in contact with P that night and he was going to meet up with us and he never did. We saw P and [Redacted] walking in the direction of the quad. We continued to the College Center and thought we should see what they were up to because they were pretty intoxicated. We did not feel comfortable. We did not get responses with either of them and we got in contact with [Redacted]. Went to Jewett, knocked on the door and got no response. Saw [Redacted] and let him take it from there and we left.

PY Where exactly did you first observe [Redacted] and I? Where were you?

[Redacted] On the path, we were walking out of the Aula, the path towards ACDC.

PY Where were [Redacted] and I when you saw us?

[Redacted] Sidewalk in front of the Aula heading towards the Quad.

PY Where the trees are or along the road?

[Redacted] The tree side.

PY Were you 100% sure it was [Redacted]?

[Redacted] Yes.

PY How far away from us were you?

[Redacted] Close enough we could hear you, but not close enough to see faces. We did not make eye contact.

PY Approximately how long did you observe us?

[Redacted] Four seconds to one minute.

PY Did you ever see [Redacted] fall to the ground?

[Redacted] No.

PY Did you talk to [Redacted] that night?

[Redacted] I did not, a friend texted her and did not receive a response back.

PY Was she with [Redacted] at this time?

[Redacted] Yes,

PY Were you together the whole time?

Redacted

Yes.

PY Walking away or towards?

Redacted

Towards

SH What indications that she was drinking?

Redacted

She was stumbling, P was supporting her weight.

JP You felt that there was something wrong, so you talked to Redacted?

Redacted

A boy and girl heading back from a party and one was really drunk.

SH How do you know Redacted?

Redacted

We were on the rowing team together, not good friends but we spent nine months together.

SH Would a reasonable person looking at her behavior be able to know that she was intoxicated?

Redacted

Yes, because I had not spent any time with her outside of an athletic context.

RH Why did you intervene only because there was a boy and girl, making the decision to get involved?

Redacted

No, I don't think so, I do think that if they were both sober we would have passed by, but she appeared to be drunk.

RH Why just if she was drunk?

Redacted

If you are drunk you are not able to give consent for physical activity.

PY What action did you take after sending the text message?

Redacted

We went to Jewett.

PY Did you have difficulty finding my room in Jewett?

Redacted

No I knew where it was.

**Redacted**

Summary of facts regarding the incident.

I was walking with friends, we were walking near the Aula, ran into P and [Redacted] recognized them. I realized it was them and we were concerned because [Redacted] was pretty drunk, they were stumbling. They were pretty far down the path. Did [Redacted] know what to do. Talked about it for 45 minutes-1 hour. We tried to reach [Redacted] [Redacted] S called a friend we could not reach anyone. We went to Jewett and ran into [Redacted] Took us to room to look for [Redacted] Went back to my room. Next day asked [Redacted] what happened she did not know. [Redacted] told me she got in touch with P and it was a big misunderstanding. Beginning of this year [Redacted] learned I was involved and eventually she confided in me and told me it was a sexual assault it was not consensual.

RH How did you see [Redacted]?

[Redacted] She was holding on to P laughing and stumbling.  
Did I appear to be using him as a support?

[Redacted] Yes.

PY How long did you observe us?

[Redacted] About one minute.

PY Were you with the whole time?

[Redacted] Until we got to the room.

PY How far away from us were you?

[Redacted] Next to us than away from us.

PY Was it dark when you saw us?

[Redacted] It was dark but there were lights on the path.

PY Did you see [Redacted] fall down?

[Redacted] Fall down no, but she was holding on, if she was not she would have fallen.

PY Since you heard [Redacted] laughing loudly what were you thinking?

[Redacted] Giggling as when you're drunk, I was concerned she was out of senses.

PY Did you talk to [Redacted]?

[Redacted] We tried to send text message and never received a response.

PY When you heard us, is there a possibility we were have a good time and were being affectionate?

Redacted I was pretty sure she was intoxicated and not in her right mind.

JK Was this concern shared with the rest of her friends?

Redacted Yes, all.

JP How many in the group?

Redacted Five, then four.

JK You deliberated for some time what were the considerations?

Redacted I wanted to call security and they thought it would be too severe. Talked about going over ourselves.

Redacted Summary of facts regarding the incident

The night in question I went to bed about 12:00, got a text about 1 or 2:00 from another Redacted regarding one of my freshmen. We advised to call security. I saw students waiting outside Ps room and they were nervous. I cornered one and told her to go into the room to get her friend out. I talked to P. I walked P back to his room and have a brief conversation about what did and what did not happen. He said he was drunk I said we should have this conversation when you're sober.

Redacted You said can you not leave. P was intoxicated, is that because he did not show signs of intoxication?

Redacted From my experience, I did not feel like he was acting far enough beyond normal behavior. He could have been acting sober but I did not get the vibe was intoxicated.

PY Did you see Redacted that night?

Redacted No.

PY Did Redacted find anyone in my room?

Redacted I did not speak with her.

SH Do you remember subject of conversation with P in the hall?



Redacted

He was annoyed.

JP

How long were you in the hall?

Redacted

A couple of minutes.

#### RH FINAL STATEMENT

Read the definition of incapacitation. Intoxication and incapacitation, intoxication can provide consent incapacitation cannot provide consent; this is determined on a case-by-case basis. This is not about consent. Reminder in no is certain of Ps level of intoxication resulting UIA regarding impact what would a reasonable person know about the level of intoxication. Witnesses had enough concern to intervene. [Redacted] is Ps friend and after [Redacted] saw P, followed them because something was not right. Something was not right. [Redacted] does not remember a lot of things. Blacking out is incapacitated, witnesses are consistent with that. These are very serious allegations. That aside, there must be a preponderance of 51% or more before incapacitation consent could be gained. Two times he asked her to have sex and it was no. Several minutes later he asked again and got a different answer. P was not visibly affected with alcohol. Females seem to be much more affected. She was the one who was stumbling.

Redacted

#### FINAL STATEMENT

Early on that evening I was with P I remember I did not want to make out, I only do that with people I am in a relationship with, and told this to him. I said the same thing when he asked me to have sex with him. Events happened in the room are fuzzy for me. Force he used on e for oral sex, next morning I had bruising in my pelvic area and on my lips. I was in a state of shock and depression, I did not know how to respond.

#### PY FINAL STATEMENT

I would like to restate:

This hearing is about finding evidence whether she was really incapacitated. I am putting a lot of trust in the panel that you only rely on the evidence. Sexual intercourse with an intoxicated person does not in any way say or implies incapacitation. I was fully aware she was intoxicated. In no way she was she so drunk that she did not know who, what, when, did not loose capacity to give consent. Only thing you have to go by is they observed her stumbling, they did not talk to her, did not smell her breath. She claims she was incapacitated, there were many inconsistencies in her statement. She was able to get off the bed, get dressed, go down four floors in Jewett, go to Strong, get into her room. All of

those things show she was capable of navigating. [Redacted] own words are the only solid evidence and what [Redacted] wrote on Facebook. There are new explanations that were never written. Four points to keep in mind. No force was used in physical or [Redacted] and I were clear about what went on that night. Heard her laughing. Decision was made voluntarily. I was a virgin, gave me instruction when my penis fell out and she put it back in. Kissing in the College Center, put condom on, when intercourse ended, when she said she missed her boyfriend, I respected her. It took one year after it happened, this can be colored after all this time, we can only speculate. Only thing that does not change with time is the truth. She gave full consent to me and I did not force her at all.

#### ADDITIONAL QUESTIONS....

JK How much did you have to drink at the party?

[Redacted]

Two drinks, later a third drink and I don't remember after that.

JK Before the party? All night?

[Redacted]

Only drank at the party, may have had more, I don't remember, but before and after nothing.